

AMENDED IN ASSEMBLY MAY 6, 2004

AMENDED IN ASSEMBLY APRIL 22, 2004

AMENDED IN ASSEMBLY FEBRUARY 24, 2004

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN SENATE APRIL 28, 2003

## **SENATE BILL**

**No. 749**

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**Introduced by Senator Escutia  
(Coauthors: Senators Soto and Speier)**

February 21, 2003

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An act to add Section 70379 to the Government Code, and to amend Section 366.28 of the Welfare and Institutions Code, relating to courts, making an appropriation therefor, *and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

SB 749, as amended, Escutia. Court facilities: Judicial Council.

Existing law establishes the State Court Facilities Construction Fund for the construction and improvement of court facilities, as specified.

This bill would establish the Court Facilities Architecture Revolving Fund, a continuously appropriated fund, to be funded by the transfer of moneys from both state funds and nonstate sources available for the construction, alteration, repair, and improvement of trial and appellate court buildings, as authorized by the Administrative Office of the Courts, and approved by the Department of Finance, as specified. Moneys transferred or deposited in the fund would be available for

expenditure by the Administrative Office of the Courts, for the purposes for which they were appropriated or made available, without regard to fiscal years.

Existing law requires the Judicial Council to adopt a rule of court on or before July 1, 2004, implementing provisions regarding writ review of a court order for the placement of a dependent child after parental rights have been terminated.

This bill would extend the deadline for the adoption of that rule of court until January 1, 2005.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 70379 is added to the Government  
2 Code, to read:  
3 70379. (a) The Court Facilities Architecture Revolving Fund  
4 is hereby established in the State Treasury, and, notwithstanding  
5 Section 13340, the fund is continuously appropriated, without  
6 regard to fiscal years.  
7 (1) With the approval of the Department of Finance, and except  
8 as otherwise specified in this section, there shall be transferred to,  
9 or deposited in, the fund all money appropriated, contributed, or  
10 made available from any source, including sources other than state  
11 appropriations, for the purposes described in paragraph (2).  
12 (2) Moneys transferred to, or deposited in, the fund shall be  
13 those administered by the Administrative Office of the Courts  
14 under subdivision (b) of Section 70374 for the construction,  
15 alteration, repair, and improvement of trial and appellate court  
16 buildings, including, but not limited to, services, new  
17 construction, major construction, minor construction,  
18 maintenance, improvements, and equipment, and other building  
19 and improvement projects.  
20 (3) In addition to the approval of the Department of Finance,  
21 the transfer or deposit of moneys into the fund shall be authorized  
22 by the Administrative Office of the Courts, both with regard to  
23 funds appropriated for the purposes specified in paragraph (2) or,  
24 as to funds from sources other than state appropriations, subject to



1 any written agreement between the contributor or contributors of  
2 funds and the Administrative Office of the Courts.

3 (b) Money from state sources transferred to, or deposited in, the  
4 fund for construction, services, equipment, repair, or  
5 improvement shall be an amount necessary based on the actual,  
6 known, or firm fixed price, upon approval of the Department of  
7 Finance.

8 Any amount available in the state appropriation that is in excess  
9 of the amount necessary based upon final actual costs of the  
10 completed contract shall be transferred immediately to the credit  
11 of the fund from which the appropriation was made.

12 (c) Money transferred or deposited in the fund pursuant to  
13 subdivision (a) shall be available for expenditure by the  
14 Administrative Office of the Courts for the purposes for which  
15 appropriated, contributed, or made available, without regard to  
16 fiscal years.

17 SEC. 2. Section 366.28 of the Welfare and Institutions Code  
18 is amended to read:

19 366.28. (a) The Legislature finds and declares that delays  
20 caused by appeals from court orders designating the specific  
21 placement of a dependent child after parental rights have been  
22 terminated may cause a substantial detriment to the child. The  
23 Legislature recognizes that the juvenile court intervenes in  
24 placement decisions after parental rights have been terminated  
25 only in exceptional circumstances, and this section is not intended  
26 to place additional authority or responsibility on the juvenile court.

27 (b) (1) After parental rights have been terminated pursuant to  
28 Section 366.26, an order by the court that a dependent child is to  
29 reside in, be retained in, or be removed from a specific placement,  
30 is not appealable at any time unless all of the following apply:

31 (A) A petition for extraordinary writ review was filed in a  
32 timely manner.

33 (B) The petition substantively addressed the specific issues to  
34 be challenged and supported that challenge by an adequate record.

35 (C) The petition was summarily denied or otherwise not  
36 decided on the merits.

37 (2) Failure to file a petition for extraordinary writ review  
38 within the period specified by rule of court, to substantively  
39 address the specific placement order that is challenged, or to  
40 support that challenge by an adequate record shall preclude

1 subsequent review by appeal of the findings and orders made  
2 pursuant to this section.

3 (c) This section does not affect the right of a parent, a legal  
4 guardian, or the child to appeal any order that is otherwise  
5 appealable and that is issued at a hearing held pursuant to Section  
6 366.26.

7 (d) The Judicial Council shall adopt a rule of court on or before  
8 January 1, 2005, to implement this section. This section shall  
9 become operative after the rule of court is adopted.

10 *SEC. 3. This act is an urgency statute necessary for the*  
11 *immediate preservation of the public peace, health, or safety*  
12 *within the meaning of Article IV of the Constitution and shall go*  
13 *into immediate effect. The facts constituting the necessity are:*

14 *It is necessary that this act take effect immediately as an urgency*  
15 *statute for the following reasons:*

16 (a) *The Architecture Revolving Fund (ARF) is necessary to*  
17 *allow funds to be expended beyond the budget year in which they*  
18 *are appropriated. Typically, capital projects have multiple phases*  
19 *such as acquisition, preliminary plans, working drawings, and*  
20 *construction. All phases cannot be completed in the budget year,*  
21 *so the funds must be encumbered through a transfer to the ARF,*  
22 *which will enable the Judicial Council to liquidate the funds*  
23 *beyond the budget year.*

24 (b) *The current deadline for adoption of court rules pursuant*  
25 *to Chapter 247 of the Statutes of 2003 will not be met. In order to*  
26 *avoid confusion about the effective date of those provisions, it is*  
27 *necessary that the deadline of July 1, 2004, be extended to January*  
28 *1, 2005.*

